

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: OMURA, Yoshiharu

SERIAL NO.: 10/038,278

ART UNIT: 3727

FILED: January 4, 2002

EXAMINER: Smalley, J. N.

TITLE: CAN HAVING A COVER WITH A STAY-ON TAB

REMARKS ON AMENDMENT "D"

Director of the U.S. Patent
and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Final Action of April 7, 2005, a response being due by July 7, 2005, and in conjunction with a Request for Continued Examination, please consider the following remarks in conjunction with the amendments to the above-identified application as follows:

REMARKS

Upon entry of the present amendments, Claim 15 has been amended. Reconsideration of the rejections, in light of the foregoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of distinguishing the present invention from the prior art combination and for the purpose of placing the application into a better condition for allowance.

In the Office Action, it was indicated that Claim 15 was rejected under 35 U.S.C. §103 as being unpatentable over the Cudzik patent in view of the Bozek patent, in view of the Perry patent and further in view of the Kyo patent. The drawings were objected to as not showing every feature

of the invention specified in the claims. Claim 15 was further rejected under 35 U.S.C. §112, first and second paragraph for failing the written description requirement and for indefiniteness. In particular, it was indicated that Claim 15 introduced new matter that was not supported by the specification or drawings..

As an overview to the present reply, Applicant has amended the language of Claim 15. Amended Claim 15 has now canceled the language that was determined to be new matter and has included additional language to further define the auxiliary support as "being radially aligned on said can cover with said support extending upwardly from said can cover". In particular, this alignment feature of the auxiliary support is distinguishable from the prior art combination.

Applicant has now presented independent Claim 15 as a picture claim of the specific embodiment of Figure 7. The canceled claim language traverses the objections to the drawings and the rejections under 35 U.S.C. §112, first and second paragraph. The claim language determined to be new matter has been removed. Figure 7 of the application clearly discloses the claimed subject matter and limitations of Claim 15. No new matter is presented by this amended claim.

With regard to the obviousness rejection, Applicant respectfully contends that there is no motivation or teaching in any of these prior art references to suggest such a combination as now claimed. Hindsight analysis combining four references to show obviousness should not be applied against the current amended limitations now recited in independent Claim 15. Applicant believes that the wide variety of limitations and the new limitation contained in independent Claim 15 should patentably distinguish the present invention from any single reference and patentably distinguish the present invention from any combination of prior art references. There is certainly no teaching or

motivation whereby one would pick and choose each of the features of the prior art references so as to show the present invention, as claimed in independent Claim 15.

Specifically, Applicant notes that only the Cudzik patent discloses a first and second support on the can cover to attach a tab. However, the supports disclosed in the Cudzik patent in the prior art combination are not the same as the auxiliary support now claimed such that the auxiliary support is not made obvious by the multiple supports of the combination. The two supports in the Cudzik patent are mounted on opposite sides of the tab to define a pivot at the line between the first and second supports. Each support has equal importance and the same function. In contrast, the support and auxiliary support of the present invention are radially aligned along the tab without any relationship to the pivoting of the tab. The support and auxiliary support have different functions unlike the prior art combination.

This configuration improves efficiency of manufacture and production, while achieving the stated goal of preventing rotation of the tab at the center of the can cover. For example, the auxiliary support of the present invention can be smaller than the support, as shown in Figure 7, such that the auxiliary support requires less material and expense to create. Additionally, the radial alignment eliminates the construction concerns of proximity of the multiple supports disclosed in the prior art combination. The auxiliary support does not have to be equal in position and strength as the support because of the function and features of positioning of the auxiliary support now claimed. These features are not suggested or disclosed by the multiple supports in the prior art combination. Applicant has added such a limitation in independent Claim 15 in an effort to further distinguish the present invention from the combination of prior art references.

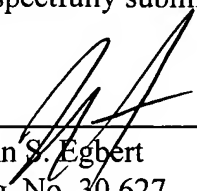
As such, the present invention offers advantages not shown nor suggested by the prior art combination.

Based upon the foregoing analysis, Applicant contends that independent Claim 15 is now in proper condition for allowance. Reconsideration of the rejections and allowance of the present claim at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required.

Respectfully submitted,

JUN 24 2005

Date



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